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Paper No. 11

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OFFICE OF PETITIONS

In re Application of
Murray Figov et al.
Application No. 09/525,579
Filed: July 24, 1998
Attorney Docket No. 0866/OE519
(P-844-US)
For: Imaging Apparatus for Exposing a
Printing Member and Printing Members
Therefor

DECISION GRANTING PETITIONS

This is a decision on the letter dated March 3, 2000, which is being treated as a petition requesting that above-identified application be accorded a filing date of July 24, 1998. This is also a decision on the letter filed December 5, 2001, and supplemented on January 10, 2002, which is being treated as a petition to withdraw the holding of abandonment of the above-identified application.

The petition to accord the application a filing date of July 24, 1998 is granted.

The petition to withdraw the holding of abandonment is granted.

No petition fee has been paid and none is required.

The petition to accord the application a filing date was accompanied by, *inter alia*, copies of a transmittal letter (2 pages), a preliminary amendment (2 pages), a specification including claims and abstract (32 pages), and 7 sheets of drawings, and a postcard receipt acknowledging receipt in the USPTO on July 24, 1998 of these same items. In view of applicants' postcard receipt, it is concluded that complete applications papers were filed on July 24, 1998 and later misplaced in the Office. Accordingly, the application is entitled to a filing date of July 24, 1998.

As evidenced by applicants' postcard receipt, this application was initially assigned application No. 09/117,406. However, the official application number assigned to this application is application No. **09/525,579** since that is the number on the filing receipt. See MPEP 503.

The priority papers filed November 23, 1998, the "Power of Attorney and Revocation of Prior Powers by Assignee" filed March 22, 2000, and the "Change of Correspondence Address" filed December 27, 2001, which were addressed to application No. 09/117,406, have been removed from application No. 09/117,406 and placed in application No. 09/525,579. The other identifying information, such as first named inventor, title of invention, and attorney docket number on these papers clearly indicate that the papers were intended for application No. 09/525,579. Applicants are advised that all further correspondence for this application should be directed to application No. 09/525,579.

On April 19, 2000, a Notice to File Missing Parts was mailed requiring the statutory basic filing fee of \$790, excess claim fee fees of \$82 for one independent claim in excess of three, an executed oath or declaration, and the \$130 surcharge for the late filing of the oath or declaration and filing fee. The Notice set a two month period for reply with extensions of time under 37 CFR 1.136(a) being available. The Notice was mailed to Darby & Darby at the address contained on the transmittal letter.

On January 11, 2001, a "Declaration and Power of Attorney for Patent Application" signed by the inventors, a "Power of Attorney and Revocation of Prior Powers by Assignee", and an assignment document were filed.

On October 25, 2001, a Notice of Abandonment was mailed to Eitan, Pearl, Latzer & Cohen-Zedek at the address contained in the Declaration and the Power of Attorney filed January 11, 2001. The Notice of Abandonment indicated that the reply received on January 11, 2001 was untimely.

On December 5, 2001, a letter was submitted by facsimile. In the letter, applicants state that the Notice to File Missing Parts was never received and that the Notice of Abandonment was believed to be in error. The letter was accompanied by a copy of the Power of Attorney filed January 11, 2001, a copy of applicants' stamped postcard receipt, and a copy of the Notice of Abandonment.

On January 10, 2002, a second letter regarding the Notice of Abandonment was submitted by facsimile.

The Notice to File Missing Parts should have been mailed to Eitan, Pearl, Latzer & Cohen-Zedek in view of the "Power of Attorney and Revocation of Prior Powers by Assignee" filed March 22, 2000.

Accordingly, the application is not abandoned in fact because applicants did not receive the Notice to File Missing Parts. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The "Change of Correspondence Address" filed December 27, 2001 has not been entered since it was signed by John L. Welsh, who is not an attorney of record. The attorneys of record are the attorneys named in the "Power of Attorney and Revocation of Prior Powers by Assignee" filed January 11, 2001.

The assignment document filed January 11, 2001 has been forwarded to Assignment Branch.

As noted above, a declaration was filed on January 11, 2001. The filing fees and the surcharge, however, have not yet been paid.

Applicants are given **TWO MONTHS** from the mail date of this decision to submit the following **required fees**: \$790 basic filing fee, \$82 for one independent claim in excess of three independent claims, and \$130 surcharge for the late submission of the filing fee and/or declaration for a total balance due of \$1002. Extensions of time under 37 CFR 1.136 are available. Failure to timely file the required fees will result in **abandonment** of the application. The response should be directed to Initial Patent Examination Division.

The application has already been processed with a July 24, 1998 filing date using the copy of the application papers supplied with the petition to accord the application a filing date.

The application is being forwarded to Initial Patent Examination Division to await the fees required above.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.



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